

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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Secretary

June 12, 2003

Hon. Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals II
445 12 St., SW
Washington, D.C. 20554

RE: Comments of the New York State Department of Public Service in the Matter of the Petition of the Cellular Telecommunications & Internet Association (CTIA) for Declaratory Ruling on Local Number Portability Implementation Issues; CC Docket No. 95-116

Dear Secretary Dortch:

The New York State Department of Public Service ("NYDPS") hereby responds to the Federal Communications Commission's ("Commission") Public Notice (Notice) issued May 22, 2003. The Notice seeks comment on the May 13, 2003 petition of the Cellular Telecommunications & Internet Association (CTIA) for a declaratory ruling on various issues pertaining to intermodal local number portability (LNP)¹ between wireline and wireless carriers. CTIA contends that resolution of these operational issues by September 1, 2003, is critical to wireless carriers' efforts to implement LNP by November 24, 2003.

¹ Number portability is the "ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." 47 USC Section 153(30).

First, it is widely understood, and as our earlier comments have stated, that consumers' ability to keep their telephone numbers when changing carriers is essential for a competitive market to succeed.² In fact, this was the Commission's chief reason for originally requiring wireless carriers to develop LNP capability.³ Consumers are increasingly migrating between wireline and wireless for their primary telephone service, and it is in the public interest to allow consumers to retain their numbers when switching to or from wireless service providers. Any delay in implementing LNP capability by wireless carriers simply forestalls the full benefits of competition for all consumers. Our main concern is that the November 24 implementation deadline should not be further delayed.

Second, even if the issues raised by the CTIA were to remain unresolved, this should not affect the technical feasibility of implementing wireless LNP. CTIA's current issues are entirely administrative in nature, and once the Commission makes clear that it will not delay the November 24, 2003 implementation of wireless LNP, we would fully expect the parties to resolve these issues via traditional commercial negotiation.

²For example, In the Matter of Telephone Number Portability, CC Docket No. 95-116 RM 8535, Comments of the New York State Department of Public Service, pp. 2-3 (filed September 12, 1995); In the Matter of CTIA Petition Requesting Forbearance from CMRS Number Portability Requirements, CC Docket No. 95-116, Letter from Lawrence G. Malone, General Counsel, State of New York Department of Public Service, to William E. Kennard, Chairman, FCC, dated December 10, 1998, p. 2.

³In the Matter of Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8433, para. 155 (July 2, 1996).

In sum, none of the issues raised in CTIA's May 13, 2003 Petition for Declaratory Ruling should forestall the competitive benefits afforded by local number portability between wireless and wireline carriers. The NYDPS respectfully requests that the Commission faithfully adhere to its November 24, 2003 deadline for implementing wireless local number portability.

Very truly yours,

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